

B/ 23. (New) Rivet as in Claim 22, characterized in that the rivet pin (14b) at its second end (14g) more distant from the workpieces is tapered, and preferably is configured in pyramid shape.

REMARKS

By the present Amendment, original claims 1-14 are cancelled and new claims 15-23 are added to provide the requested clarification. The new claims correspond to the modified claims appended to the Preliminary Examination report, except for an additional recitation in claim 22 (corresponding to modified claim 8). Pursuant to M.P.E.P. § 1893.01(b)(2), those modified claims should have considered prior to the May 16, 2003 Office Action. This leaves claims 15-22 pending in the application, with claims 15 and 21 being independent.

In response to the restriction requirement, Applicant elects the Group 1 invention, presently claims 15-21, with traverse. Reconsideration and withdrawal and the requirement is requested since (1) unity of invention principles apply under 37 C.F.R. §§ 1.475 and 1.499, not restriction practice under 35 U.S.C. § 121, (2) no examples are provided of the different apparatus and/or rivet, and (3) the claims relate to two devices to be used together, and not to an apparatus and a product made by the apparatus covered by M.P.E.P. 806.05(g).

As provided in M.P.E.P. §§ 1895.01 D and 1896, restriction practice for a national stage application, as here, is determined under unity of invention principles under 37 C.F.R. 1.475 and 1.499, not under 35 U.S.C. § 121. The restriction requirement is the outstanding Office Action, being based on 35 U.S.C. § 121, is untenable.

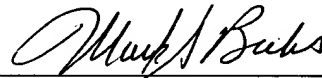
No allegation or showing is made to support a lack of unity of invention, as required by M.P.E.P. § 1893.03(d). In fact, no lack of unity of invention was found in the prosecution of the International application or the corresponding European application.

Although it is alleged that the apparatus can use another and materially different rivet, and that the rivet can be used in another and materially different apparatus, no examples thereof are provided as required in M.P.E.P. 806.05 (g). Without adequate examples to support the requirement, the requirement cannot be maintained.

The group 1 claims are directed to an apparatus for producing a riveted joint using the rivet of group II, while the group II claims are directed to a rivet for forming a riveted joint using the apparatus of group I. Thus, unity of invention exists.

Prompt and favorable action on all pending claims is solicited.

Respectfully submitted,



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